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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/533,205	03/20/2006	David James Sealy Powling	KCX-983-PCT-US (17753)	9103
22827	7590	07/28/2008	EXAMINER	
DORITY & MANNING, P.A. POST OFFICE BOX 1449 GREENVILLE, SC 29602-1449			NICHOLS IL ROBERT K	
ART UNIT		PAPER NUMBER		
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/533,205	POWLING ET AL.	
	<b>Examiner</b> ROBERT K. NICHOLS II	<b>Art Unit</b> 3754	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If no period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) Responsive to communication(s) filed on 03/20/2006.
- 2a) This action is FINAL.      2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) Claim(s) \_\_\_\_\_ is/are allowed.
- 6) Claim(s) 1-21 is/are rejected.
- 7) Claim(s) \_\_\_\_\_ is/are objected to.
- 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on 28 April 2005 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All    b) Some \* c) None of:
  1. Certified copies of the priority documents have been received.
  2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) Notice of References Cited (PTO-892)
- 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) Information Disclosure Statement(s) (PTO/0256/06)  
 Paper No(s)/Mail Date \_\_\_\_\_
- 4) Interview Summary (PTO-413)  
 Paper No(s)/Mail Date. \_\_\_\_\_
- 5) Notice of Informal Patent Application
- 6) Other: \_\_\_\_\_

**DETAILED ACTION**

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 1-19 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Moore (US 5,405,057) in view of Lewis et al. (US 6,533,145).**

Regarding claims 1-4, Moore discloses a dispensing pump 10 including a cylinder or pump body 30, a piston or pump stem 50 mounted for reciprocation within the cylinder 30, an inlet for admitting liquid to be dispensed into the cylinder 30, a check valve 80 arranged selectively to open and close the inlet opening (column 10, lines 54-57 and column 11, lines 26-32).

Moore further discloses the piston 50 having a dispensing passage or internal stem passage 54 in fluid communication with the cylinder 30 (see figure 9 and column 8, lines 52-63).

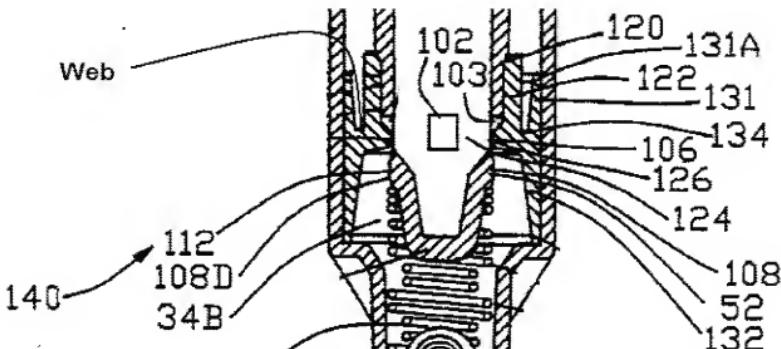
Furthermore, Moore discloses a cut-off valve 140 including a sliding valve member 120 arranged selectively to open and close fluid communication between the piston dispensing passage 54 and the cylinder 30 as the piston 50 reciprocates within the cylinder 30 (see figure 5, column 9, lines 22-30, 46-54 and column 10, lines 5-37).

In addition, Moore discloses openings 101, 102 and 103 in the piston 50 formed in the sidewall and the valve member 132 slidably engages an outer surface of the piston 50 (see figure 5 and column 10, lines 30-37).

Moore further discloses axially spaced shoulders 108 and 109 provided on the piston 50 to limit the axial movement of the valve (see figure 10, column 9, lines 1-6 and 31-45).

Regarding claim 5, Moore discloses the cut-off valve 140 to include a radially outer wall for engaging the inner surface of the cylinder 30 and a radially inner wall for engaging the piston 50 (see figure 5, column 9, lines 7-10 and 46-61).

Regarding claim 6, Moore discloses the inner and outer walls to be connected by a radially extending web (see marked-up figure 7).



## Moore Marked-Up Figure 7

Regarding claim 7, Moore discloses the check valve 80 to include a ball valve having a ball received upon a valve seat 82 (see figure 7 and column 8, lines 31-35).

Regarding claims 8-11, Moore discloses the ball to be retained by a spring 90, wherein the spring 90 locates over the end 52 of the dispensing piston 50. Moore further discloses the spring 90 to be formed with a variable diameter so as to retain the ball adjacent the opening (see figure 7, column 8, lines 36-51 and 58-61).

Regarding claim 12, Moore discloses the spring 90 to be configured and arranged such that during the return stroke of the dispensing piston the ball is maintained in the inlet opening configured cut-off valve closes (column 10, lines 45-57).

Regarding claim 15, Moore discloses an air vent 39 which allows air to enter the reservoir receiving the pump around the pump piston (see figure 7 and column 7, lines 54-55).

Regarding claims 16, 17, 19 and 21 , Moore discloses a free standing vented reservoir or container 20 wherein the dispensing pump is mounted to the outlet of the reservoir and actuated for liquid to be dispensed (see figure 3, column 6, lines 62-68, column 10, lines 66-67 and column 11, lines 1-4).

With further regards to claims 1, 13 and 14 Moore discloses all the elements of the claimed invention except a dispensing valve in fluid communication with the dispensing passage.

Lewis teaches a dispenser pump having a elastomeric or resilient self sealing dispensing valve 110 which is in fluid communication with the dispensing passage or channel 94 to provide sealing and to prevent leakage of viscous liquid or soap from the dispenser (see figure 7, column 8, lines 7-20, column 9, lines 14-20 and column 10, lines 14-34).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the device of Moore with a dispensing valve in fluid communication with the dispensing passage as taught by Lewis, in order to provide sealing and to prevent leakage of viscous liquid or soap from the dispenser.

Regarding claim 18, Moore fails to disclose the reservoir housed in a housing for attachment to a supporting surface.

Lewis teaches an integrally formed mounting mechanism configured as an integral component of the housing to allow the dispenser to be detachably connected with a complimentary mounting structure generally provided on a wall surface (column 10, lines 46-60 and column 2, lines 40-56).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the Moore device, with a housing for attachment to a supporting surface as taught by Lewis, to allow the dispenser to securely be attached to a supporting surface and prevent the dispenser from sliding movement.

**Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Moore (US 5,405,057) in view of Lewis et al. (US 6,533,145) as applied to claims 1-19 and 21 above, and further in view of Garcia et al. (US 5,873,491)).**

Regarding claim 20, the combination of Moore and Lewis disclose all the elements of the claimed invention except a reservoir that is unvented.

Garcia teaches a dispenser including non vented pump for dispensing from a flexible heat sealed reservoir that protects the fluid product from oxidation or other external contaminants (column 4, lines 55-63, column 6, lines 56-62 and column 8, lines 30-32).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the device of Moore, with a reservoir that is unvented as taught by Garcia, in order to protect the fluid product from oxidation or other external contaminants.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Schultz (US 4,991,746), Clevenger et al. (US 3,500,761), Fernandez et al. (US 6,334,549) and Baily (US 2001/0011562).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ROBERT K. NICHOLS II whose telephone number is (571)270-5312. The examiner can normally be reached on Mon-Friday 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kevin Shaver can be reached on 571-272-4720. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Robert K Nichols II/  
Examiner, Art Unit 3754

/Kevin P. Shaver/  
Supervisory Patent Examiner, Art  
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